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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,
Plaintiff,

WALKER RIVER PAIUTE TRIBE,
Plaintiff-Intervenor,

V.

WALKER RIVER IRRIGATION
DISTRICT, a corporation, et al.,

Defendants.

) 3:73-cv-00127-MMD-WGC

**PRINCIPAL DEFENDANTS’
RESPONSE TO UNITED STATES’
AND THE WALKER RIVER PAIUTE
TRIBE’S NOTICE IN OPPOSITION
TO DEFENDANTS’ REQUEST FOR
ORAL ARGUMENT**

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1 In making a Request for Oral Argument here, the Principal Defendants did not detail
2 specific reasons for the request, but rather complied, albeit belatedly, with the intent of Local Rule
3 78-1. They made no attempt to make their Request a motion or a sur-reply. They are criticized
4 for not explaining why, after review of Plaintiffs' Reply, they requested oral argument.

5 Briefly, the Principal Defendants believe that oral argument will assist the Court in
6 correctly interpreting and applying *Arizona v. California*, 460 U.S. 605 (1983) ("*Arizona II*"), to
7 the facts of this case. Oral argument will assist the Court in determining whether, for purposes of
8 *Arizona II*, the "previously litigated claim" here was for the full reserved right for the Reservation,
9 or merely a claim to "enjoin upstream water users from interfering with the Tribe's ability to
10 irrigate." U.S. and Tribe Reply, ECF 2659 at 16. Oral argument will assist the Court in
11 determining whether there are facts in the record which do support the conclusion that the claim
12 the United States litigated previously was the full reserved right for the Reservation, whether that
13 is consistent with the expectations of the parties and the Court at the time, and whether the action
14 was, in fact, akin to a general adjudication, an issue not raised in the initial filing. *See*, Reply, ECF
15 2659 at 16-17.

16 For the first time in reply, the United States and Tribe assert that the United States had no
17 reason to litigate "rights to water for which no party was interfering." Reply, ECF 2659 at 16. In
18 oral argument, the Principal Defendants can show that there was "interference" with water which
19 the United States asserts it has a right to store.

20 Oral argument will benefit the Court in determining whether the 1939 decision of the Court
21 of Appeals, as distinguished from the reversed 1935 decision of the District Court, was based upon
22 a recognition of defendants' alleged argument that the Reservation right should be limited to 2,000
23 acres because creation of a reservoir could support future, additional irrigation on the Reservation.
24 *See*, Reply, ECF 2659 at 18.

1 Oral argument will benefit the Court on the contention that, here, the United States is
2 merely seeking new rights, from new sources, for new lands. *See*, Reply, ECF 2659 at 23. Oral
3 argument will assist the Court in understanding that the Principal Defendants' position on the law
4 and the facts here with respect to a reserved right to groundwater is not what Plaintiffs contend.
5 *See*, Reply, ECF 2659 at 27-28.

6
7 Those are just a few of the issues on which oral argument might be beneficial to the Court.
8 Finally, even with oral argument, the Principal Defendants do not expect to be the party having
9 the "last word." United States and Tribe Opposition, ECF 2661 at 1.

10 Although the Principal Defendants believe that oral argument will be beneficial to the
11 Court, they certainly understand that, regardless of when or how it is requested, the decision to
12 have oral argument rests with the Court.

13
14 Date: March 10, 2021

WOODBURN AND WEDGE

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16 *Attorneys for Walker River Irrigation District*

17 Date: March 10, 2021

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24 Date: March 10, 2021

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Stacey Simon
26 *Attorney for Mono County*

1 Date: March 10, 2021

SIMONS HALL JOHNSTON PC

2 By: / s / Brad M. Johnston

3 Brad M. Johnston

4 *Attorneys for Desert Pearl Farms, LLC, Peri Family Ranch,*
LLC, Peri & Peri, LLC, and Frade Ranches, Inc.

5 Date: March 10, 2021

SCHROEDER LAW OFFICES, P.C.

6 By: / s / Laura A. Schroeder

7 Laura A. Schroeder

8 *Attorneys for the Schroeder Group*

CERTIFICATE OF SERVICE

I certify that I am an employee of Woodburn and Wedge and that on the 10th day of March, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/ s / Holly Dewar
An employee of Woodburn and Wedge